

**FRANK'S
ATTORNEYS
TAKE NEW
FIGHT TO
U. S. JUDGE
NEWMAN**

Writ of Habeas
Corpus Will

Be Asked of the
Federal

District Court This
After-
noon

DUE PROCESS OF
LAW

DENIED, WILL
BE PLEA

Petition Will Set Out
That

State Lost
Jurisdiction of

Case, as Frank Was Not Present to hear Verdict

Another effort to save Leo M. Frank through the courts will be made sometime Thursday afternoon when the condemned man's counsel will appear before Judge T. Newman, of the United States district court, and file a petition for a Writ of Habeas Corpus.

This petition will, like the motion to set aside the verdict, be based upon the ground that when Frank was not allowed to be present at the rendition of the jury's verdict big constitutional rights were violated and that when this was done, the state courts lost jurisdiction in the case.

In the event that Judge Newman grants the petition the State of Georgia can appeal from his decision to the United States Supreme Court, and should be deny it Frank can appeal. The action is purely evil in its nature and for that reason both parties have the right of appeal. In a criminal action the state would be denied this right.

Should Judge Newman grant the petition and issue the writ of Habeas Corpus and should he be sustained by the United States Supreme Court Frank would be discharged from custody just as he would have been discharged had the United States

Supreme Court entertained his appeal on the motion to set aside and sustained his contentions.

Franks counsel, Attorneys Tye, Peeples & Jordan and H. A. Alexander, are resorting to the petition for a habeas corpus writ in the hop of getting the case fairly and squarely before the United States Supreme Court.

They are anxious to have that tribunal pass upon the constitutional point made in the motion to set aside the verdict, namely, that when Frank was not present in the court room at the rendition of the verdict, namely, that when Frank was not present in the court room at the rendition of the verdict his constitutional rights were invaded and he was convicted without due process of law.

It will be contended in the petition or habeas corpus writ that when the lawyers court permitted the jury to return a verdict during Frank's absence that court lost jurisdiction; that its judgement was void and that it was without power to pronounce sentence.

Attorneys for Frank explain that when the United States Supreme Court declined to consider their appeal on the motion to set aside the court based its action upon the fact that the case had not followed the procedure outlined by the Georgia Supreme Court and that, therefore, it could not be considered by the Federal Supreme Court.

The United States Supreme Court did not, it is pointed out, go into the merits or demerits of the constitutional point raised, but simply rested its decision on the matter of State procedure.

The State Supreme Court in denying Frank's motion to set aside the verdict held that the Constitutional Point raised by him should have been included in the original motion for a new trial.

The contemplated court action, like the original appeals from the original judgment, does not touch upon the guilt or innocence

of the condemned man. It is a purely legal point, involving the question of due process of law and constitutional rights.
